Admiralty jurisdiction of the Federal Government is distinct from, and does not depend upon the power to regulate commerce, was recognized both before[7] and subsequent[8] to the Lord case. In fact the Admiralty jurisdiction is much broader in its scope than that under the Commerce Clause,[9] extending to all of the public waters of the United States forming by themselves, or united with other waters, a continued highway over which commerce may be carried on with other States or foreign countries;[10] the Erie Canal, though lying entirely within the borders of the State of New York, is as much within the Admiralty jurisdiction as the high seas;[11] local traffic upon the canal moves among the vessels of foreign nations, and if that fact is determinative of the character of the commerce involved, it must follow that all internal transportation to which the Admiralty power extends is beyond the rate regulating power of the State within whose borders alone the transportation is confined. The extent of the Admiralty power, it is believed, is a matter entirely distinct from the question of jurisdiction over rates.

S. R. S.

CONSTITUTIONAL LAW: STATE LICENSE TAX ON ITINERANT VENDORS.—The practice of fortifying every proposition advanced in an opinion with a formidable array of citations of authority has perhaps been carried far beyond the exigencies of most cases by the courts in recent years. It is therefore a matter of surprise to find the Supreme Court of Wyoming applying Article 1, Section 10 of the Federal Constitution without referring to a single prior adjudication.[1] The Court had before it the "Itinerant Vendors Act,"[2] which required that itinerant vendors should obtain licenses as a condition to making sales in Wyoming. The defendant was engaged in making contracts for the sale of buggies, which by the terms of such contracts were to be forwarded from Iowa by defendant's principal to the vendees in Wyoming. Defendant was arrested for a violation of the act, in not procuring a license. The Court held that the act was unconstitutional on two grounds: (1) as repugnant to the Commerce Clause, and (2) as a violation of Article 1, Section 10, which prohibits the States from laying any imposts or duties upon exports or imports.

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[7] The Belfast, (1868) 74 U. S 624; Genesee Chief, (1851) 12 How. 443; Propeller Commerce, (1861) 66 U. S. 574.

[8] Butler v. Steamship Co., (1889) 130 U. S. 527; In Re Garnet, 141 U. S. 1; The Robert W. Parsons, (1903) 141 U. S. 17, 35.

[9] Ex Parte Boyer, (1884) 109 U. S 629; The Robert W. Parsons, (1903) 191 U. S. 17; In Re Garnet, (1891) 141 U. S. 1; Escanaba Co. v. Chicago, (1882) 107 U. S. 678.

[10] The Daniel Ball, (1870) 10 Wall. 557.

[11] The Robert W. Parsons, (1903) 191 U. S. 17.

[1] State v. Byles, (Nov. 10, 1913) 136 Pac. 114.

[2] Wyo. Comp. Stat. sec. 2844-2850.

The second ground upon which the Court placed the unconstitutionality of the act is clearly erroneous. In Brown v. Maryland,[3] Chief Justice Marshall intimated, it is true, that articles brought into a State from a sister State are "imports" within the meaning of the Clause in question, but this dictum was later expressly repudiated in Woodruff v. Parham,[4] where the Court, speaking through Mr. Justice Miller, said: "Whether we look then to the terms of the clause in question, or to its relation to the other parts of that instrument, or to the history of its formation and adoption, or to the comments of the eminent men who took part in those transactions, we are forced to the conclusion that no intention existed to prohibit by this clause the right of one State to tax articles brought into it from another." The same doctrine was re-affirmed in Brown v. Houston,[5] and again in American Steel etc., Co. v. Speed.[6]

The second ground of decision in the principal case, that the act was void as placing a burden on interstate commerce is in accordance with the decisions of the United States Supreme Court. In both Woodruff v. Parham and Brown v. Houston, supra, the doctrine was laid down that it was only those taxes which were discriminatory in character that laid a burden on interstate commerce, and were hence repugnant to the exclusive regulatory power of Congress; in those cases, however, the taxes were assessed upon the goods after they had reached the State which levied them. The negotiation of the sale of goods, which at the time are in another State, for the purpose of introducing them into the State in which the negotiation is made, cannot be taxed at all according to the case of Robbins v. Shelby County Taxing District[7] and a line of subsequent cases.[8] On the other hand, peddlers who carry their wares with them, and make sales as they go along, may be subjected to a license tax by the State regardless of the fact that the goods which they are engaged in selling have been brought from another State, so long as no discrimination is made on that account.[9]

Where a tax is not discriminatory in its terms it is difficult to perceive how a tax applying to the negotiation of sales is any more a burden on interstate commerce when the goods are to be brought from another State than when the peddler, having brought the goods from another State for the purpose of sale,

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[3] (1827) 12 Wheat. 419
[4] (1868) 8 Wall. 123.
[5] (1885) 114 U. S. 622.
[6] (1904) 192 U. S. 500.
[7] (1887) 120 U. S. 489.
[8] Asher v. Texas, (1888) 128 U. S. 129; Stoutenburg v. Hendricks, (1889) 129 U S. 141; Brennan v. Titusville, (1894) 153 U. S. 141; Rearick v. Penn., (1906) 203 U. S. 507.
[9] Machine Co. v. Gage, (1879) 100 U. S. 676; Emert v. Missouri, (1895) 156 U. S. 296.

delivers them at once to the vendee. The historical fact adverted to by Mr. Justice Gray in Emert v. Missouri[10] that hawkers and peddlers have always been regarded with suspicion and subjected to regulation, might well serve as a distinction where the license is imposed merely as a police regulation, but not where the license is imposed for revenue. Unless such taxes as that under consideration in the Robbins case, supra, can be said to work a discrimination against the products of other States in fact, though non-discriminatory in their terms, it would seem that whatever burden they place upon interstate commerce is merely incidental, and no more "regulatory" thereof than any other tax.

S. R. S.

CONSTITUTIONAL LAW: UNIVERSITY OF CALIFORNIA: VACCINATION OF STUDENTS.—A decision by the District Court of Appeal, First District,[1] has a double interest, (1) in discussing the powers of the Regents of the University of California, and (2) in construing the state vaccination law of 1911.[2]

(1) The University of California owes its legal existence to an enactment known as the Organic Act, or Charter, of the University, of the date of March 23, 1868.[3] By the provisions of this act the institution was placed under the charge and control of a board of directors styled the Regents of the University of California. To this body was intrusted the general management and superintendence of the institution, with the power to prescribe rules for its government and to fix the qualifications for the admission of students thereto. The Organic Act was amended in 1872 in an unimportant point,[4] and was in large part incorporated into the Political Code in the same year.[5] By the Constitution of 1879 the institution was raised to the dignity of a constitutional department or function of the State government, by the following words: "The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the organic act creating the same passed March 23, 1868 (and the several acts amendatory thereof), subject only to such legislative control as may be necessary to ensure compliance with the terms of its endowments and the proper investment and security of its funds."[6]

In 1878 the Hasting College of the Law was established, with a separate board of directors, as an affiliated college of the Uni-

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[10] (1895) 156 U. S. 296.
[1] Williams v. Wheeler, (Dec. 31, 1913) 18 Cal. App. Dec. 51.
[2] Stats. 1911, p. 295.
[3] Stats. 1867-68, p. 248.
[4] Stats. 1871-72, p. 655.
[5] Pol. Code, secs. 1385-1477.
[6] Cal. Const. art. IX, sec. 9.